

April 2016

Human Rights Watch Submission to the United Nations

Committee on the Rights of the Child

Introduction

This memorandum, submitted to the United Nations Committee on the Rights of the Child ("the Committee"), ahead of its 74 Pre-Sessional Working Group, highlights areas of concern that Human Rights Watch hopes will inform the Committee's consideration of the Serbian government's compliance with the Convention on the Rights of the Child ("CRC"). This submission focuses on violations of the rights of children with disabilities¹ in Serbia, in particular articles 3, 9, 12, 18, 19, 20, 23, 24, 25, 27, and 28.

This submission draws from research conducted in October and November 2015 in Serbia, including 118 interviews with children and young people with disabilities, their families, civil society organizations, legal experts, the UNICEF, the Serbian Ombudsperson, the Commissioner for Equality, and government officials and visits to five large social welfare homes² and three small group homes in Belgrade, Niš, and Aleksinac for children and young people with disabilities.

Human Rights Watch found that Serbia has made some progress in the implementation of the rights of children with disabilities. Reforms of the Law on Social Protection in recent years have introduced positive developments aimed at the prevention of institutionalization of children, for instance, by prohibiting institutionalization of children under the age of three. Foster care as an alternative care for children separated from their families was established. UNICEF in cooperation with the Serbian government developed family outreach services to support families where there is a risk of separation of children.

¹ The term "children with disabilities" in this document is used to refer to children up to the age of 18 who have "long-term physical, mental, intellectual, or sensory impairments which in interaction with various barriers may hinder full and effective participation in society on an equal basis with others." (Convention on the Rights of Persons with Disabilities, Article 1). The term "young people" in this document is used to refer to people from age 18 to 26. According to the Serbian Family Law, parental rights can be extended after a person with disabilities reaches the age of 18 in which case the person that has been put under extended parental rights is legally considered a child.

² Centre for the protection of infants, children, and youth "Zvečanska," Home for children and persons with disabilities "Stamnica," Home for children and youth with disabilities "Veternik," Home for children with disabilities "Kolevka," Centre for children and youth "Sremčica"

However, laws and practices still in place in Serbia prevent children with disabilities, particularly those with intellectual, developmental, or psychosocial disabilities, from exercising their human rights.

In the upcoming review, Human Rights Watch urges the Committee to question the government of Serbia about the following key issues:

1. Institutionalization of children with disabilities;
2. Lack of community services and support mechanisms for children with disabilities and their families;
3. Abuse and neglect of children with disabilities in Serbian institutions;
4. Use of psychotropic medication;
5. Lack of access to health care in the community;
6. Barriers to education for children with disabilities.

This document does not review every issue relevant to the abovementioned topics. Rather, it underscores several concerns that figured most prominently in our research, and that significantly influence the degree to which children with disabilities are able to exercise other rights, such as the right to family life, the right to play, and the right to development, among others.

1. Institutionalization of children with disabilities in Serbia

The Serbian government has taken some steps toward preventing the further institutionalization of children with disabilities. For example, the Ministry of Labour, Employment, Veteran and Social Policy has developed and strengthened alternative care arrangements in the community for children separated from their families, such as foster care. The 2011 Law on Social Protection prohibits placement in institutions for children under the age of three unless there are “justified reasons” and for no longer than two months, except where the ministry responsible for social protection gives its consent.³ The 2011 Law, however, does not explain what the “justified reasons” are for which a child under the age three can be placed in an institution.⁴ There are also no guidelines on the application of this provision. The earlier adopted Regulations on

³ Law on Social Protection, Official Gazette of the Republic of Serbia, No. 42/2011, Article 52, available in Serbian at: http://www.paragraf.rs/propisi/zakon_o_socijalnoj_zastiti.html (accessed January 13, 2016).

⁴ A Human Rights Watch researcher was allowed to see a decision issued by the Ministry of Labour, Employment, Veteran and Social Affairs, giving the consent on the placement of a child. The decision explains how the Centre of Social Work had exhausted all other possibilities to provide a child with accommodation in less restrictive manner and should therefore be placed in an institution.

Removal of Irregularities in Placing Children and Youth in Institutions of Social Welfare⁵ from 2006 only oblige the Centre for Social Work to consider the applicability of support services to birth families and the child, and provide the possibility of placing a child in foster care as an alternative form of protection, before deciding on placing a child in an institution.⁶

Despite this progress, as of December 2014, 10,896 people with disabilities live in institutions in Serbia⁷ – the majority of them having entered the institution as children.

There are five large residential institutions in Serbia where children with disabilities live;⁸ in three out of five, they live in the same facilities together with adults, often in the same room. In 2008, the Serbian government in partnership with UNICEF implemented an EU funded Comprehensive Plan for Transformation of Residential Social Care Institutions for Children with the aim to move children out of institutions and into the community. This Plan, which expired in 2013, did not target primarily children with disabilities, but children without disabilities or parental care. Some children with disabilities have been moved out of only one institution, the Kulina Institution for Persons with Disabilities in Aleksinac. Even in this case, the majority of children were not moved into family households but rather to another institution or small group home (with up to 12 children with disabilities).⁹ Currently, Serbia does not have a comprehensive national deinstitutionalization plan for persons with disabilities.

The small group homes, created in 2008 and supported by UNICEF, were intended to provide family-like environments and temporary accommodation for children with disabilities from Kulina.¹⁰ From small group homes, the centers for social work were supposed to gradually move children to live in foster care or with biological families.

⁵ Ministry of Labour, Employment and Social Affairs, Regulations on Removal of Irregularities in Placing Children and Youth in Institutions of Social Welfare [In Serbian: Mere za otklanjanje nepravilnosti u vršenju poslova smeštaja dece i omladine u ustanove socijalne zaštite], No. 560–03–619/2006–14. November 3, 2006.

⁶ Ibid. Section III, Paragraph 3.

⁷ Republic Institute for Social Protection, *Adults in the system of social protection* [In Serbian: Odrasli u sistemu socijalne zaštite], July 2015, p. 37, available in Serbian at: <http://www.zavodsz.gov.rs/PDF/izvestaj2015/PUNOLETNI%20KORISNICI%20U%20SISTEMU%20SOCIJALNE%20ZASTITE.pdf> (accessed January 13, 2016).

⁸ Center for protection of infants, children and youth “Zvečanska,” Home for children and persons with disabilities “Veternik,” Home for children and persons with disabilities “Stamnica,” Home for children with developmental disabilities “Kolevka,” Home for children and youth “Sremcčica.”

⁹ Human Rights Watch interview with Katlin Brašić, child protection specialist at UNICEF, Serbia, October 15, 2015;

Human Rights Watch interview with Dragana Ćirić, director, Mental Disability Rights International, Serbia, October 14, 2015.

¹⁰ Human Rights Watch interview with Katlin Brašić, child protection specialist at UNICEF, Serbia, October 15, 2015.

Currently, the majority of children who moved to small group homes since 2008 continue to live there.¹¹

Three out of five large residential institutions¹² where children with disabilities live that were visited by Human Rights Watch in October and November 2015 were in the process of being refurbished, suggesting that the government is invested in prolonging the use of these institutions.¹³ Some of the renovations were undertaken to improve the living conditions for children and adults with disabilities in institutions, for example by building an elevator in the Kolevka Home for Infants and Children with disabilities in Subotica. However, Human Rights Watch found that two isolation rooms were being refurbished in Veternik Institution for Children and Adults with Disabilities, which, according to the director of the institution, are used to separate children from other residents in cases of contagious diseases or until they adapt to the institution.¹⁴ In March 2014, Serbia also opened a newly built institution for children and young people with disabilities in Šabac, contradicting its previous expressed commitment to community-based living and appropriate support services for all children, including children with disabilities, in the 2008 Plan on Transformation of Residential Social Protection Institutions for Children.¹⁵

On April 4, 2016, Serbia opened a new building inside of the Stamnica Institution for Children and Adults with disabilities, with a capacity of 112 people.¹⁶ According to the press statement, 66 million Serbian dinars (approximately 540,000 Euros) were allocated from the national budget for the building of this new complex.¹⁷

¹¹ Human Rights Watch interview with Katlin Brašić, child protection specialist at UNICEF, Serbia, October 15, 2015; Human Rights Watch interview with Gordana Čalića, director of the small group home “Yusa” in Belgrade, Serbia, October 16, 2015; Human Rights Watch interview with Jasna Nikolić, director of the small group home in Aleksinac, Serbia, November 19, 2015.

¹² According to the institutions staff, as of October 2015, up to 540 people lived in the Veternik Institution for Children and Adults with disabilities, including 59 children; 345 in the Stamnica Home for Children and Adults with Disabilities, including 22 children; 292 in the Sremčica Home for Children and Youth, including 49 children; 120 children with disabilities in the Zvečanska Center for Protection of Infants, Children and Youth; and 167 children with disabilities in Kolevka Home for Infants and Children with Disabilities. Human Rights Watch documented that there was a lot of variation in terms of what the staff in institutions visited said about the numbers of children living there.

¹³ These are: Home for children and persons with disabilities in Veternik, Home for children and persons with disabilities “Stamnica,” Home for children with developmental disabilities “Kolevka.”

¹⁴ Human Rights Watch interview with Zoran Arbutin, director, Home for Children and Persons with Disabilities in Veternik, Serbia, October 20, 2015

¹⁵ Comprehensive Plan for Transformation of Residential Social Care Institutions for Children 2009 – 2013, Ministry of Labour, Employment, Veteran and Social Policy, Belgrade, September 2009.

¹⁶ Radio Televizija Srbije, “Vulin otvorio novoizgrađeni objekat za ometene u razvoju,” April 4, 2016 <http://www.rts.rs/page/stories/sr/story/125/Dru%C5%A1tvo/2268858/Vulin+otvorio+novoizgra%C4%91eni+objekat+za+ometene+u+razvoju.html> (accessed April 10, 2016).

¹⁷ Ibid.

COMPREHENSIVE PLAN FOR TRANSFORMATION OF RESIDENTIAL SOCIAL CARE INSTITUTIONS FOR CHILDREN 2009 – 2013

While the Social Law Reforms have led to a decrease in the placement of babies in institutions, Human Rights Watch found that children with disabilities under the age of three are still being placed in institutions. For example, according to the Republic Institute for Social Protection, 48 children with disabilities under the age of three lived in orphanages in 2014.¹⁸ According to institution staff, as many as five babies with disabilities were placed in Zvečanska Center for Protection of Infants, Children and Youth in Belgrade in 2015.¹⁹ According to local experts and UNICEF, babies continue to be placed in institutions directly from maternity wards.²⁰

1.1 Data on children and young people with disabilities in Serbian institutions

In its submission to the Committee, the Serbian government asserts a decline in the number of children in institutions.²¹ While the Serbian government has reduced the number of children without disabilities who live in institutions, children with disabilities continue to be overrepresented in institutional settings. As many as 79.9 percent of children in institutions in 2014 in Serbia were children with disabilities, up from 62.5 percent from 2012.²² Most of these children have a living parent. According to official statistics, 657 children and 623 young people with disabilities live in institutions.

¹⁸ Republic Institute for Social Protection, *Children in Social Welfare for 2014 [Deca u sistemu socijalne zastite 2014.]* Belgrade, July 2015, P.39

¹⁹ Human Rights Watch interview with social worker (name and details withheld), Zvečanska Center for Protection of Infants, Children and Youth, Serbia.

²⁰ Human Rights Watch interview with Katlin Brašić, child protection specialist at UNICEF, Serbia, October 15, 2015; Human Rights Watch interview with Valentina Zavišić, director, VelikiMali, phone interview, October 23, 2015.

²¹ Committee on the Rights of the Child, *Government of The Republic of Serbia to the Committee on the Rights of The Child. The Second and Third Periodic Report on The Implementation of the Convention on the Rights of the Child*, December, 2014, CRC/C/SRB/2-3, p. 27, para. 91.

²² Republic Institute for Social Protection, *Deca u sistemu socijalne zastite [Children in Social Welfare 2014]*, Belgrade, July 2015, p. 39

Based on interviews with local activists and directors of three institutions, Human Rights Watch also learned that the government's alleged decrease in the number of children with disabilities in institutions is a result of children reaching the age of adulthood rather than them leaving the institution. Human Rights Watch found that when children with disabilities turn 18, they are either put under "extended parental rights"²³ and legally considered children and continue to live in orphanages, or are placed in state institutions for adults. For example, at the time of Human Rights Watch's October 2015 visit to the institution for children and persons with disabilities in Veternik, there were 59 children in that institution. The director explained that by the end of 2015, there would be 50 children in the institution because nine of them will have turned 18.²⁴ These nine individuals would continue to live within the same institution as adults. A social worker from the Zvečanska Institution for Children and Youth with Disabilities in Serbia, where 120 of children with disabilities were living as of November 2015, explained to Human Rights Watch that after turning 18, children leave Zvečanska and go to institutions for adults.²⁵

Instead of transitioning children with disabilities out of institutions and into the community, Human Rights Watch documented an increase in admissions in the last two years in the five institutions visited. For example, in 2014, not one child had left the Stamnica Centre for Children and Adults with Disabilities, while one child was admitted.²⁶ In 2015, four children with disabilities were moved from the Sremčica Home for Children and Youth and placed in foster care. During the same year, four other children were admitted to Sremčica.²⁷

In Zvecanska, five children and young persons left the institution in 2015. Out of five, three persons were moved to another institution, including the Kulina Institution for Adults with Disabilities, the only institution from which some children were moved out on the basis of the 2008 Transformation Plan.²⁸ At the same time, nine children were admitted to Zvecanska, including five babies in 2015.

²³ According to the Serbian Family Law, parental rights can be extended after a person with disabilities reaches the age of 18 in which case the person that has been put under extended parental rights is legally considered a child. See: Family Law, Official Gazette of the Republic of Serbia, No. 18/2005, 72/2011, 6/2015, Article 85, available in Serbian at: http://www.paragraf.rs/propisi/porodicni_zakon.html, (accessed January 13, 2015).

²⁴ Human Rights Watch interview with Zoran Arbutin, director, Home for children and persons with disabilities Veternik, Serbia, October 20, 2015.

²⁵ Human Rights Watch interview with social worker, [name withheld], Zvečanska Center for Protection of Infants, Children and Youth, Serbia, November 17, 2015

²⁶ Human Rights Watch interview with social worker, [name withheld], Stamnica Centre for Children and Adults with Disabilities, Serbia, October 21, 2015.

²⁷ Human Rights Watch interview with social worker [name withheld], Sremcica Institution for Children and Adults with Disabilities, Serbia, November 16, 2015.

²⁸ Ivana Cerovic, social worker, Serbia, October 16, 2015

According to local activists and directors of two institutions, all institutions in Serbia have a waiting list.²⁹

2. Lack of community services and support mechanisms for children and young people with disabilities and their families

Serbia has developed and strengthened foster care arrangements and currently 808 children with disabilities are placed in foster care. However, according to local experts and a child protection specialist at UNICEF, children with disabilities are more likely to be put in alternative care arrangements than receive support in the birth families.³⁰ According to an analysis done by the Network of Organizations for Children in Serbia in 2013, family support prior to separating a child from its family was provided in only 15 percent of the cases.³¹ The central government finances foster care and institutions from the national budget, while municipalities have the responsibility to develop and finance support services for families. This results in a large number of children who live in poorer municipalities, or municipalities who have not committed to this kind of funding, without access to any services.³² According to local experts and a child protection specialist at UNICEF, most municipalities lack sufficient funds to establish quality services and strengthen existing ones.³³

Human Rights Watch found that community-based family support services to assist and support children with disabilities and their biological families are lacking.³⁴ In fact, according to directors of three Serbian institutions where children with disabilities live, poverty and lack of government-supported services for children with disabilities and their families is the main reason for placement of children in institutions.³⁵ Where services

²⁹ Human Rights Watch interview with Dragana Čirić, director, Mental Disability Rights International, Serbia, October 14, 2015; Human Rights Watch interview with Zoran Arbutin, director, Home for Children and Persons with Disabilities Veternik, Serbia, October 20, 2015.

³⁰ Human Rights Watch interview with Katlin Brašić, child protection specialist at UNICEF, Serbia, October 15, 2015; Human Rights Watch interview with Saša Stefanović, director, Network of Organizations for Children in Serbia, phone interview, October 19, 2015.

³¹ Human Rights Watch interview with Saša Stefanović, director, Network of Organizations for Children in Serbia, phone interview, October 19, 2015.

³² Human Rights Watch interview with Katlin Brašić, child protection specialist at UNICEF, Serbia, October 15, 2015; Human Rights Watch interview with Saša Stefanović, director, Network of Organizations for Children in Serbia, phone interview, October 19, 2015.

³³ Human Rights Watch interview with Saša Stefanović, director, Network of Organizations for Children in Serbia, phone interview, October 19, 2015; Human Rights Watch interview with Valentina Zavišić, director, VelikiMali, phone interview, October 23, 2015.

³⁴ Human Rights Watch interview with Dragana Čirić, director, Mental Disability Rights International, Serbia, October 14, 2015.

³⁵ Human Rights Watch interview with Gordana Stevanović, Deputy Ombudsperson for the rights of children, Vladana Jović, Deputy Ombudsperson for the rights of persons with disabilities, Miloš Janković, Deputy Ombudsperson/ NPM, Serbia, October 16, 2015.

do exist, they are limited in scope and outreach.³⁶ For example, the family outreach service, targeted at providing support to families where there is a risk of the separation of children from their families, is being implemented in only four major cities in Serbia, with limited financial resources and no long-term sustainability.³⁷ The family outreach service is currently financed by a private foundation and not by the Serbian government.

Day care for children and young people with disabilities, so called "living rooms," is the most common support service available for children with disabilities who live with their families or are placed in foster care. The development of day care centers was a positive step forward in providing care and accommodation during the working hours of parents, and as a support service to schools. However, according to local activists and a child protection specialist at UNICEF, "living rooms" have become a substitute for school and the vast majority of children with disabilities in Serbia who attend day care are not enrolled in schools.³⁸ Also, day care centers throughout the country are geared toward "taking care" of children rather than teaching and empowering them. Finally, these centers are only for children and adults with disabilities, further segregating and isolating them.

In the upcoming review, Human Rights Watch urges the Committee to question the government of Serbia regarding the steps it has taken to implement articles 18, 20, 23, and 27, including:

- *What are the "justified reasons" provided for in the 2011 Law on Social Protection under which a child with disability under the age of three can be placed in an institution for longer than two months?*
- *How many children with disabilities have been moved out from institutions into families in 2015?*
- *How many children with disabilities were admitted to institutions in 2015?*
- *How many children under the age of three have been placed in institutions - even for two months- in 2015?*
- *What steps has the government of Serbia taken to adopt a national comprehensive plan on deinstitutionalization of persons with disabilities?*

³⁶ Ibid.

³⁷ Human Rights Watch interview with family supporters in Belgrade, Serbia, October 16, 2015.

³⁸ Human Rights Watch interview with Katlin Brašić, child protection specialist at UNICEF, Serbia, October 15, 2015; Human Rights Watch interview with Saša Stefanović, director, Network of Organizations for Children in Serbia, phone interview, October 19, 2015; Human Rights Watch interview with Valentina Zavišić, director, VelikiMali, phone interview, October 23, 2015.

- *What measures have been adopted at the State level to ensure municipalities have the resources to provide inclusive community services, including support services to children with disabilities and their families?*
- *What steps has Serbia taken to redirect funding from institutions to community and support services for children with disabilities and their families?*
- *What was the cost of the newly built institution for children with disabilities in Sabac and from what budget was it built?*
- *What steps has the Serbian government taken to support the family outreach service, currently financed by the Novak Djokovic Foundation and the UNICEF?*

4. Neglect and abuse in institutions

Through interviews with children and young people with disabilities, institution staff, and activists, as well as visits to five institutions, Human Rights Watch found that children and young persons with disabilities continue to be subjected to a range of abuses in Serbian institutions. These include segregation and seclusion; neglect; unsanitary conditions; lack of privacy; physical and psychological violence; involuntary and inappropriate medical treatment, and lack of education and play.

4.1. Segregation and seclusion

Many children with disabilities are confined to cribs or beds all day, seven days a week, in so called “wards for the most severely disabled,” a term used by institution staff. In both Stamnica Centre for Children and Adults with Disabilities and Veternik Institution for Children and Persons with Disabilities, children were confined to cribs in the same room as adults.

In the Kolevka Home for Children with Disabilities, up to 30 children, including newborn babies, were confined to cribs in rooms without natural light or fresh air where they spent their entire day. There, up to 11 children were confined to one room. None of these children with disabilities attend school. The vast majority of children in the “wards for the most severely disabled” in Veternik, Stamnica, and Kolevka are kept in diapers. In Kolevka, the vast majority of 30 children are fed by tubes. According to the institutions’ staff, children who live in these wards in Kolevka and Stamnica institutions never go outside. According to the Serbian Ombudsperson, the situation is the same for children who live in the “ward for the severely disabled” in Veternik institution.³⁹ During our visit to the Veternik institution in October 2015, the staff explained to Human Rights

³⁹ Human Rights Watch interview with Gordana Stevanovic, Deputy Ombudsperson for the rights of children; Vladana Jovic, Deputy Ombudsperson for the rights of persons with disabilities; and Milos Jankovic, Deputy Ombudsperson/National Mechanism for the Prevention of Torture, Serbia, October 16, 2015.

Watch that, following recommendations issued by the Serbian Ombudsperson,⁴⁰ children who lived in the “ward for the severely disabled” were moved from the upper floor to the ground floor in July 2015 to make it easier for caregivers to take them outside.⁴¹ Human Rights Watch could not verify whether this resulted in children with high support needs indeed spending time outside.

In two institutions visited, Human Rights Watch found that children are put in isolation rooms. The staff explained that the purpose of isolation is to ensure that children do not carry contagious illnesses into the institution or that they adapt to the institution. For example, a Human Rights Watch researcher found one child confined to an isolation room in Veternik where, according to the staff, he sleeps, eats, and uses the toilet. When a child is in an isolation room, he/she is denied education, play, and any interaction with other children.

Human Rights Watch found one seven-year-old boy with intellectual and physical disabilities, who is also HIV positive, living in the isolation ward in one of the institutions. Institution staff explained that he does not go to school and is not allowed to eat or play with other children because of the fear that he could infect other children. He has been living in this institution since he was one year old. Institution staff explained to Human Rights Watch that he was allowed to play with another girl who lived in the institution for a while, but because of the fear that he could infect her by scratching her, they separated them.

4.2. Neglect and lack of individualized care

Lack of individualized attention from caregivers is a significant problem documented in all large institutions Human Rights Watch visited, leading to neglect. This is likely due in part to the lack of personnel to care for large numbers of children and adults with disabilities. For example, in Starnica, in the “ward for the most severely disabled,” there are four caregivers and one nurse for 64 children and adults with disabilities. Other than getting a bath daily and having basic needs such as diaper changes and feeding taken care of, people have no individualized attention.

Many children with disabilities in Serbian institutions are diapered and not toilet trained. This is particularly the case with children in the “wards for the most severely disabled,”

⁴⁰ Protector of Citizens of the Republic of Serbia – National Preventive Mechanism, *Report of Visit to “Veternik” Residential Centre*, March 12, 2014. Available [in Serbian] at: http://www.ombudsman.rs/index.php/lang-sr_YU/izvestaji/posebni-izvestaji/4368-2015-10-14-09-13-19 (accessed: January 20, 2016)

⁴¹ Human Rights Watch interview with a medical nurse, Institution for Children and Adults with Disabilities in Veternik, October 20, 2015.

but Human Rights Watch observed children in other wards were diapered as well. Diapers are in short supply with only two diapers per person/child per day.

4.4. Physical abuse and psychological violence

While many institution staff Human Rights Watch interviewed appeared well-intentioned and caring for the children, some children and young people with disabilities whom Human Rights Watch interviewed reported experiencing or witnessing various forms of physical and psychological violence by staff or, in the majority of cases, by peers. Some children and young people reported beatings by staff and, more often, by older children and adults with disabilities. We documented six cases of beatings by institution staff. While most occurred two to three years prior to Human Rights Watch's visits to the institutions, we also documented two recent cases.

Children and young people with disabilities also described the use of physical restraints by institution staff, often for a prolonged time, but all the instances in which interviewees reported being restrained or witnessing the use of restraints took place two to three years prior to Human Rights Watch's visits to the institutions.

Human Rights Watch also found that children with disabilities were subjected to insults and derogatory language by institution staff. For example, Human Rights Watch researchers observed that institution staff often referred to children as having no potential to learn or go to school. They often remarked that "no one wants them" in the presence of the children.

A majority of children with disabilities who told Human Rights Watch that they experienced abuse said that they did report the abuse to the institution staff, but that no action was taken.

In the upcoming review, Human Rights Watch urges the Committee to question the government of Serbia regarding the steps it has taken to protect the rights of children with disabilities from neglect and abuse, including:

- What mechanisms are in place to ensure children with disabilities are free from violence and abuse by institution staff and by peers?*
- Do children with disabilities living in institutions have accessible complaint mechanisms to report their treatment? What are the mechanisms for children to file such complaints?*
- Under what circumstances can a child be segregated and isolated from other children? What measures have been adopted to eliminate isolation of children on the basis of their disability and ensure that all children with disabilities living in state institutions are free from discrimination?*

4.5. Use of Psychotropic Medication

Human Rights Watch documented that medication, including psychotropic medications, are used on children with disabilities in Serbian institutions and small group homes, often as a means of dealing with behavioral issues.

Although caregivers in institutions are allowed to administer sedatives and other psychiatric medications as prescribed by a psychiatrist,⁴² Human Rights Watch reviewed medical files in one of the institutions visited which revealed that psychiatrists sometimes prescribed the use of sedatives “as needed”, leaving it to the discretion of the institution staff.

In three institutions, Human Rights Watch documented that many children were given combinations of the following medications: Largacil (an antipsychotic), Rivotril (a benzodiazepine), Mendilex (an anti-cholinergic), Rissar (atypical antipsychotic), Lorazepam (a benzodiazepine), Diarpam (sedative), and Amitriptyline (antidepressant).

According to the medical information provided with the medication in Serbian, Mendilex is not recommended for use by children, Lorazepam is not recommended for children under the age of 12, and Amitriptyline is not recommended for children under the age of 16.⁴³

According to the European Medicine Agency,⁴⁴ Lorazepam is not recommended for children under the age of 12 in the United Kingdom, while Rissar is not recommended for children under the age of five. According to two child psychiatrists consulted by Human Rights Watch, except for Rissar, none of the medication documented by Human Rights Watch as prescribed for children in institutions in Serbia, is licensed or approved for use by children in the US.

Staff in institutions, including medical staff, stated that the psychiatric drugs are in many cases prescribed to prevent children from harming themselves or from being aggressive to others, but also to control the behavior of children.

⁴² Human Rights Watch interview with Zeljko R., doctor, Home for Children and Persons with Disabilities in Veternik, Serbia, October 20, 2015; Human Rights Watch interview with Marija M., doctor, Stamnica Centre for Children and Adults with Disabilities, Serbia, October 21, 2015.

⁴³ Mendilex, Uputstvo za lek [Instructions about the medication], available [in Serbian] at: <http://lekovi.org/d5c05ed0/lek/mendilex.htm> [accessed: April 25, 2016]; Lorazepam, Uputstvo za lek [Instructions about the medication], available [in Serbian] at: <http://www.simptomi.rs/index.php/lekovi/4121-lorazepam-anksiolitik-benzodiazepin> [accessed: April 25, 2016]; Amitriptyline, Uputstvo za lek [Instructions about the medication], available [in Serbian] at: <http://lekoviza.com/amitriptyline-za-ecenje-depresije/> [accessed: April 25, 2016].

⁴⁴ Europe Medicines Agency, *Assessment of the Pediatric Needs . Psychiatry*, London, 27 July 2007, http://www.ema.europa.eu/docs/en_GB/document_library/Other/2009/10/WC500004046.pdf [accessed: April 25, 2016]

A medical doctor in Sremcica Institution explained that physical restraints are not allowed in the institution in the case of behavior considered to be harmful or aggressive: "We use drugs in case of self-harm. We regulate this [self-harm or aggressive behavior] by medication, not restraints."⁴⁵

Staff also recognized the lack of knowledge on alternatives to support children who may be exhibiting self-harming or otherwise "undesirable" behavior as perceived by staff. For example, an educator in a small group home, told Human Rights Watch, "We need more information and feedback on what to do in cases of aggression and attacks. We do have those challenges."⁴⁶ A staff member in Zvecanska Institution acknowledged that, "Usually aggression is a sign that the child is craving something. That we need to pay more attention to the child."⁴⁷

Staff in two institutions visited stated that the lack of staff contributed to overreliance on high dosages of psychotropic medication for children, as a means for small numbers of staff to manage a number of children.⁴⁸ The doctor from the institution in Sremcica said: "There is one special education therapist per 25 residents. It is impossible to devote [time to each child]. An individual approach is simply not possible. The need for psychotropic drugs would be significantly reduced if we only had more people on staff."⁴⁹ According to the Ministry of Health, there is no independent and periodic monitoring or control of the medical treatment of, or prescribing of, medicines for children and young people in institutions.⁵⁰

5. Lack of health care for children with developmental disabilities who live in the community

Human Rights Watch documented a lack of access to adequate health care for children with developmental, intellectual, and psychosocial disabilities who live with their families or in foster care. Human Rights Watch interviewed three family outreach workers (who support children with disabilities and their families where there is a risk of separation of children), all of whom said that children with disabilities and their families face particular difficulties in accessing health care.⁵¹ Parents of a child with developmental disabilities told Human Rights Watch how they decided to place their newborn child with developmental disabilities in an institution because they could not access the necessary and timely health services in their community.

⁴⁵ Human Rights Watch interview with medical doctor, [name withheld], Serbia, November 16, 2015.

⁴⁶ Human Rights Watch interview with an educator in Aleksinac small group home, Serbia, November 19, 2015.

⁴⁷ Human Rights Watch interview with institution staff, Zvecanska Institution, Serbia, November 17, 2015.

⁴⁸ Human Rights Watch interview with Maja, psychologist, Kolevka Institution, Serbia, November 18, 2015.

⁴⁹ Human Rights Watch interview with physician, Srenmcica, November 16, 2015

⁵⁰ Human Rights Watch interview with Sladjana Djukić, Ministry of Health of Republic of Serbia, November 30, 2015.

⁵¹ Human Rights Watch interview with Ljubisa Jovanovic, coordinator of the program, Selma Catovic, family support associate, Lidija Bukvic, family associate, Ivana Cerovic, social worker, Serbia, October 16, 2015

During the review of Serbia by the UN Committee on the Rights of Persons with Disabilities on April 5 and 6, 2016, in Geneva, Switzerland, the Ministry of Labour, Employment, Veteran and Social Policy, reported that 70.5 percent of children with disabilities placed in institutions of social welfare are placed because of “the inability of parents to meet the health needs of the child in the community where they live.”

Human Rights Watch urges the Committee to ask Serbia what measures they have taken to ensure that children and young people with disabilities enjoy their right to health and their right to free and informed consent to medical treatment, including:

- *Are there guidelines regarding the use of psychotropic medication for children?*
- *What procedures are put in place to ensure children with disabilities receive psychotropic medication that is licensed and approved for children in Serbia? Is there a list of approved and licensed medications for use by children?*
- *Is there any training available for health workers and institution staff regarding non-evasive ways to support children who may have behavioral problems?*
- *What measures have been adopted to ensure that health care services, including reproductive health care services, are based on the free and informed consent of the person concerned, including children?*
- *What measures have the Ministry of Health taken to oversee the prescription of medications, including psychotropic medication, to children in institutions?*
- *What measures have been adopted and concrete steps taken to ensure that children with disabilities have access to adequate, appropriate, and timely healthcare services in their communities?*

6. Barriers to education for children with disabilities

In Serbia, most kindergarten and mainstream schools continue to be inaccessible for children with disabilities, particularly children with psychosocial or intellectual disabilities. This is despite the existing national law that protects the right to free and compulsory primary education.⁵² According to the Ministry of Education, up to 50 percent of children with disabilities in Serbia are not enrolled in schools.⁵³ According to local activists and a child protection specialist at UNICEF, children with disabilities who live in the community instead spend the majority of their time in day care centers (the so-called “living rooms”) or at home. According to a family outreach worker interviewed

⁵² Law on Fundamentals of Education System, Official Gazette of the Republic of Serbia, No. 72/2009, 52/2011, 55/2013, 35/2015, and 68/2015, available [in Serbian] at: http://www.paragraf.rs/propisi/zakon_o_osnovama_sistema_obrazovanja_i_vaspitanja.html (accessed February 3, 2016)

⁵³ Human Rights Watch interview with Gordana Četković, Head of the Group for Social Inclusion, Ljiljana Simic, Associate for Inclusive Education, Snezana Jakovic, Advisor for Social Inclusion, Ministry of Education, Serbia, December 4, 2015.

by Human Rights Watch, many schools refuse to admit children with disabilities claiming that they do not have resources or skills to educate them.

Children and young people with disabilities living in institutions in Serbia have little or no access to education. Children who do receive education attend specialized schools or classrooms only for children with disabilities. Some children receive education within the institution. The majority of children in the “wards for the most severely disabled” do not receive any education.

Human Rights Watch researchers visited all institutions during school hours and found a large number of school age children in the institution. The institution staff often claimed that the children's health was too fragile for them to be in school. In four of the institutions visited, Human Rights Watch found that many children are excluded from school because they did not start early enough. This is despite the 2009 Law on Education which requires full inclusion of children with disabilities and an obligation for each school to enroll children older than 7.5 years who have not been enrolled in school due to illness or other reasons.⁵⁴ None of the 22 children with disabilities in the Stamnica Home for Children and Adults with Disabilities attend school. At Kolevka institution, staff explained that many children between the ages of 13 and 15 do not go to school because they are “now beyond the age to enter school.” Out of 167 children who live in Kolevka, only 23 go to school. According the Serbian government, 60% of school-aged children (6-15 years of age) with disabilities who live in institutions are excluded from the education system.⁵⁵

According to experts, the more severe the disability the lower the likelihood a child would be included in the education system. Staff in institutions often told Human Rights Watch that only children “with better prospects will be included in schools.”⁵⁶

Children with disabilities who live in Serbian institutions and are enrolled in schools are enrolled in segregated settings. They either go to special schools for children with disabilities or attend a special class exclusively for children with disabilities in mainstream schools. Human Rights Watch documented that the majority of children who are enrolled in school do not spend more than two to three hours per day in school or attend school only a few times per week. For young people with disabilities, secondary education is not widely available and, where it is available, is limited to vocational training.

⁵⁴ “If a child older than seven and a half years of age has not been enrolled in the first grade due to illness or for other reasons, this child may be enrolled in the first or a relevant grade following the test in previously acquired knowledge.” Art. 98.

⁵⁵ Initial review of Serbia by the UN Committee on the Rights of the Child, Geneva, Switzerland, April 5–6, 2016.

⁵⁶ Human Rights Watch interview with staff in the Home for children with disabilities “Kolevka,” November 18, 2015.

Human Rights Watch urges the Committee to ask the Serbian government what measures they have taken to ensure that all children and young people with disabilities enjoy their right to an inclusive, quality education, on an equal basis with others, in line with article 23, including:

- How many school aged children with developmental or intellectual disabilities (6-15 years of age) and adolescents (15-17 years of age) live in Serbia –with their families or foster families? What percentage of them are out of school – any type of school? Out of this number, how many children attend special schools or classrooms for only children with disabilities? How many children receive education at home?
- How many school-aged (6-15 years of age) and adolescents with developmental or intellectual disabilities live in Serbian institutions for social welfare, including small group homes? What percentage of them are out of school? Out of this number, how many children attend special schools or classrooms for only children with disabilities? How many children receive education within the institution?
- What concrete measures has the Ministry taken to enroll in the education system children and young people who are currently out of school?
- What practical measures has the Ministry taken to ensure that all children with disabilities have access to mainstream schools?
- What practical measures has the Ministry taken to ensure that young people with disabilities have access to mainstream schools and universities?
- What specific steps has the Ministry taken to ensure that children and young people with disabilities living in institutions and small group homes have access to inclusive education in their communities?
- What steps have been taken to ensure reasonable accommodations to allow children with disabilities to ensure their right to education?
- What steps has the government taken to ensure officials responsible for education and state institutions for people with disabilities are accountable for progress made toward guaranteeing all children with disabilities, including those living in state institutions, access to inclusive education?